EPA's Part 192 Rulemaking

Background: Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) provides EPA with the authority to develop public health and environmental protection standards for uranium and thorium mills and mill tailings. The U.S. Nuclear Regulatory Commission (NRC) (~2008-2010) was developing regulations to address all aspects of in-situ recovery (ISR), which has become the predominant method of uranium extraction in the United States. In 2010, a legal decision was made that **EPA** must first develop standards of general application (under UMTRCA) that the **NRC** can then use to develop implementing regulations. These regulations are then implemented by either NRC or NRC "Agreement States."

The EPA's Office of Air and Radiation (OAR) regulation sets standards, proposing to add a new subpart 192 to existing regulations, for the protection of the public health, safety and the environment from radiological and non-radiological hazards associated with uranium ore processing, and disposal of associated wastes. The cross-media standards of general application apply to all phases of a uranium operation, from pre-operational background data collection, to operational and post-operational monitoring, and site restoration. The NRC and their Agreement States use these standards in their oversight of uranium facility operations and in issuing licenses for source material.

EPA first proposed new groundwater protection standards for ISR facilities in January 2015. After reviewing public comments and new information, the Agency decided to re-propose the rule and solicit additional public comments. The public comment period for the re-proposed rule opened on January 19, 2017 and closed on October 16, 2017. EPA is currently reviewing public comments.

- The most significant changes from the original 2015 proposal include:
  - Removing the default 30-year long-term monitoring provision and shifting to a Resource Conservation and Recovery Act (RCRA) Subtitle C corrective action framework as a model rather than a RCRA Subtitle C landfill framework;
  - adding specific criteria and procedures for approving termination of long-term stability monitoring;
  - deleting gross alpha particle activity from proposed Table 1 to subpart F of [HYPERLINK "https://www.federalregister.gov/select-citation/2017/01/19/40-CFR-192"], and;
  - allowing more flexibility for the NRC or Agreement States to determine on a site-specific basis the constituents for which concentration based standards are set.

- Over 5,380 public comment letters from a wide range of stakeholders and comments covering more than 80 different topics. Office of Management and Budget (OMB) also met with more than 15 groups of stakeholders to hear concerns.
  - Commenters were particularly concerned: 1) about the default 30-year long-term monitoring requirement; 2) that the optional method by which a licensee could request permission to cease long-term stability monitoring lacked sufficient specificity; and 3) that the number of constituents required to be monitored was unreasonably burdensome.
  - Several commenters thought the economic analysis underestimated the compliance costs and identified several additional categories of costs related to the long-term monitoring requirements that they believed should be included or were not accurately accounted for EPA's analysis.

- Region 8 is currently reviewing comments on UIC permits public noticed for a proposed uranium ISR project, Dewey Burdock, in SD. Comments from the operator included concerns that our monitoring requirements for the permit relied on the draft Part 192 rule. The UIC proposed requirements are separate from the Part 192 rule and are based primarily on site-specific information. Region 8 did consider the draft Part 192 rule to minimize potential conflicts with the proposed permit.